

REMARKS

Claims 1-5, 7-12 and 14-16 stand rejected as being anticipated by Baron US 4,233,689. With regard to independent claims 1, 10 and 16, it is asserted that Baron shows a first masking layer having openings therein, referring to column 4, lines 50-55 in the text of the Baron patent. It is further asserted that the second masking layer in Baron also includes openings for the eyes of the wearer, referring to the same passage in the specification. The obviousness assertion further argues that the openings for the eyes in the second layer are in substantial register with the first layer openings, although there is no specific support identified in the Baron specification. Baron is further argued as teaching a controller, identifying the circuits/switches discussed in column 4-5, lines 60-10.

Contrary to the assertions in the action, Baron does not suggest or disclose the subject matter of the claims as pending. Claim 1, for example, requires a first masking layer “having openings for eyes of the wearer” and a second masking layer “having openings for the eyes of the wearer which are in substantial registration with the first layer openings”. The mask in Baron does not include eye openings in either the first and second layers. Rather, the two layers in Baron are transparent, so that the wearer can see through the layers, not through openings in the layer material. Moreover, the passage referenced by the Examiner in column 4 does not suggest eye openings. This passage in Baron, starting at line 48, reads as follows:

As seen FIGS. 1 and 2, external indicators are mounted on the inner shell 12 in the area of switch 56 and the internal indicator is positioned on the interior shell below the wearer's eyes where it is clearly visible. The circuitry associated with switch 56 is illustrated in FIGS. 4a-4b and the actual writing which is carried by and secured to the inner shell is seen in FIGS. 1 through 3, and 4b.

The mere reference to the wearer's eyes in this passage does not indicate that there is an opening in the masking layer in Baron. There is nothing in Baron to indicate that there is an opening for the eyes. Again, the outer and inner shells are transparent so that one can see through the mask material directly. In the present invention, the masking layers include holes in each of layer, which are in substantial registration.

The assertion that a controller of the type claimed by Applicant is found in Baron is also inaccurate. Each lamp in Baron includes a switch, which is activated by a blow to the mask. The switch does not activate a plurality of lamps, as claimed. Moreover, the switch does not activate the

plurality of lamps in a pattern. These specific limitations of claims 1, 10 and 16 are not suggested or disclosed by Baron.

All of the claim language must be considered when determining whether or not a reference suggests or discloses a claim combination. Baron clearly does not teach every limitation of the claims as presented and thus does not anticipate those claims. Moreover, Baron does not suggest its modification to create the specifically claimed combination. It is improper to omit specific elements in the claims.

In the present application, the openings are clearly defined as being holes or breaks within the surface of the mask layers. There are no such openings around the eyes in the Baron mask. The only opening referenced in Baron is adjacent to the mouth of the wearer.

For the reasons expressed above, the dependent claims are also considered allowable over the Baron reference. Without further limiting the claims, Baron does also not disclose a translucent material as defined by the claims. Rather, the Baron material is transparent. As specifically indicated in the specification, the term “translucent” means that light from the lamps is visible once activated, although the lamp structure is not necessarily visible. Transparent would permit viewing of the light, since it clearly permits one to see the inner structures. The passage at column 2, referred to in the office action, specifically defines the outer flexible sheets as being transparent, not translucent. This is further the structure of the inner shell in Baron. There is no indication that the lamps or other structures would be hidden in normal viewing, prior to activation.

With respect to claim 3, it is asserted that Baron discloses a first masking layer comprising an opaque material. Reference is made to column 2, lines 38 and 39. However, this passage merely identifies the Baron material as being durable plastic. Both before and after this specifically reference paragraph, the inner and outer layers in Baron are referred to as transparent. This description in Baron is directly contrary to the term “opaque” in claim 3.

With regard to claims 5 and 12, it is asserted that Baron discloses a hood making reference to element 26. To the contrary, element 26 is an extended front skirt integrally formed with the mask. The skirt extends downwardly from the lower portion of the mask to cover the wearer’s throat. The hood as claimed in the present application covers the top and rear of the wearer’s head; this is what a hood does. Again, the specific words in the claim are contrary to the teachings of Baron.

The claims as pending are respectfully submitted to be patentably distinct from the structure in the cited Baron patent. The limitations in the claim language are specific and cannot be ignored. Moreover, the specific structures shown and described in the Baron reference cannot be ignored. Baron does not suggest or disclose every element of the claims.

Acknowledgement is made that claims 6 and 13 are considered allowable as originally filed. These claims have been amended to become independent, including all of the limitations of the corresponding base claim. Thus, these amendments place claims 6 and 13 in allowable form.

Finally, the additional references identified in the office action have been considered. It is respectfully submitted that none of these references suggest or disclose the additional elements of the claims that are absent from Baron.

The claims as amended are submitted to be in condition for allowance. A notice of allowance is requested.

If the Examiner would like to discuss additional minor amendments or any further aspect of the claims in the application, he is invited to phone Applicants' representative as identified below.

Respectfully submitted,



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